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IN THE

Supreme Court of the United States

OCTOBER TERM, 1948.

No. 492.

RUSSELL R. KNOWLES AND SYLVIA KNOWLES, ET AL.,
Petitioners,

v.

WAR DAMAGE CORPORATION, an instrumentality of the United States of America, *Respondent.*

PETITIONERS' REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

PHILIP W. AMRAM,
JAMES M. CARLISLE,
JEROME J. DICK,
607 Ring Building,
Washington, D. C.

WARD M. FRENCH,
Dupont Circle Bldg.,
Washington, D. C.
Counsel for Petitioners.

GEORGE W. HOFT,
1600 Girard Trust Building,
Philadelphia, Pennsylvania,
Of Counsel.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioners contended below that the District Court had jurisdiction of this action on two alternative grounds:

First, because the action is against the United States, and the District Court therefore has concurrent jurisdiction with the Court of Claims under the Tucker Act (Title 28, U.S.C. Section 1346(a)(2)).

Second, because even if the action is not regarded as one against the United States, the District Court has jurisdiction by virtue of Title 11 District of Columbia Code, Section

306; under that section the District Court has general jurisdiction over all actions in law or in equity in the District of Columbia, and the Municipal Court Act of 1942 (Title 11 District of Columbia Code, Section 755) divests the District Court of its jurisdiction only with respect to a limited class of "non-federal" and "purely local" matters, involving less than $3,000.00. The subject matter of this action is neither "non-federal" nor "purely local".

The Court of Appeals, nevertheless, held that the Municipal Court for the District of Columbia has exclusive jurisdiction.

I.

With respect to the first contention, namely, that this is a suit against the United States, the respondent, in the Brief in Opposition (page 6), states categorically that this action is not a suit against the United States, citing three opinions of this Court, dating from 1922 to 1930.

The Brief ignores entirely the opinion of this Court in *Cherry Cotton Mills, Inc.* v. *United States,* 327 U. S. 536, decided in 1946, and the decision of the Court of Appeals for the Second Circuit in *Defense Supplies Corporation* v. *United States Lines Co.,* 148 F. (2d) 311, decided in 1945.

II.

Conceding *arguendo* that the respondent is right and that this is not a suit against the United States, the Court of Appeals still erred in giving exclusive jurisdiction to the Municipal Court. As pointed out on pages 9-11 of the petition, the exclusive jurisdiction of the Municipal Court is limited to cases of a "non federal or purely local" character, irrespective of the identity of the defendant.*

* There being no "state court" in the District of Columbia, the U. S. District Court for the District of Columbia is both a federal court (like other district courts) as well as a "local court" (like other state courts). In this latter capacity it has general jurisdiction unlimited in amount and unrestricted as to parties in all actions, except insofar as this jurisdiction may have been carved away by the grant of exclusive jurisdiction in a narrowly limited field to the Municipal Court. Title 11 District of Columbia Code, Section 306 (see Appendix to this Reply Brief; *Fehlhaber Pile Co.* v. *Tennessee Valley Authority,* 155 F. (2d) 864 (App. D. C. 1946).

The Brief of the Respondent in Opposition wholly ignores this independent ground of error in the decision of the Court of Appeals and presents no answer whatever thereto.

The subject matter of the instant case is unanswerably purely federal and not local. It involves the interpretation of an Act of Congress of nation-wide application; it involves a fund collected by the defendant in the performance of a purely governmental war-time activity and on a nation-wide scale; the plaintiffs are not residents of the District and their relationship with the defendant arose out of transactions in the Commonwealth of Pennsylvania.

III.

If any technical objection is raised that petitioners' second contention above, (although fully argued in the District Court, in the Court of Appeals, and in the Petition), is not specifically included in the "Questions Presented" and "Specification of Errors to be Urged", the petition filed herein is amended by the inclusion of an additional "Questions Presented" No. 6, as follows:

> "(6) Does the Municipal Court for the District of Columbia have exclusive jurisdiction of an action in the District of Columbia against a corporate instrumentality of the United States (even though the action is not regarded as a suit against the United States) brought to interpret an Act of Congress of nation-wide application, to adjudicate rights to a fund collected by the defendant in the performance of a purely governmental war time activity and on a nation-wide scale, where the plaintiffs are not residents of the District of Columbia and their rights of action did not arise therein, and where the amount claimed by the plaintiffs is less than $3,000.00."

and by the inclusion of an additional "Specification of Errors to Be Urged," No. 3, as follows:

> "(3) That the Municipal Court for the District of Columbia has exclusive jurisdiction of an action in the

District of Columbia against a corporate instrumentality of the United States (even though the action is not regarded as a suit against the United States) brought to interpret an Act of Congress of nation-wide application, to adjudicate rights to a fund collected by the defendant in the performance of a purely governmental wartime activity and on a nation-wide scale, where the plaintiffs are not residents of the District of Columbia and their rights of action did not arise therein, and where the amount claimed by the plaintiffs is less than $3,000.00."

WHEREFORE your petitioners respectfully pray that a Writ of Certiorari to the Court of Appeals for the District of Columbia be granted.

Respectfully submitted,

PHILIP W. AMRAM,
JAMES M. CARLISLE,
JEROME J. DICK,
WARD M. FRENCH,
Counsel for Petitioners.

GEORGE W. HOFT,
1600 Girard Trust Building,
Philadelphia, Pennsylvania,
Of Counsel.

February 9, 1949.

APPENDIX.

Title 11 District of Columbia Code, Section 306.

Said court (except as otherwise provided in this title) shall have cognizance of all crimes and offenses committed within said district and of all cases in law and equity between parties, both or either oi which shall be resident or be found within said district and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising or accruing under the laws of the United States.